

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: INTERSTATE POWER COMPANY	DOCKET NOS. RFU-98-16 RFU-98-19 RFU-99-5 (WRU-98-11-150) (WRU-98-34-150)
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ORDER APPROVING AD VALOREM TAX REFUND PLAN

(Issued September 18, 2000)

On March 4, 1998, Interstate Power Company (Interstate) filed a request for a waiver of 199 IAC 19.10(8). The filing was identified as Docket No. WRU-98-11-150. Subrule 19.10(8) requires that a utility shall refund to customers an amount equal to any refund received from a supplier, plus interest where appropriate. The subrule also requires the utility to file a refund plan within 30 days of receipt of the refund from the supplier.

Interstate indicated that it had received a refund from Northern Natural Gas Company (Northern) in the amount of \$268,292. The refund was for amounts related to the payment of Kansas ad valorem taxes during the period 1983 to 1988. Interstate indicated that the Federal Energy Regulatory Commission (FERC) order requiring the refunds was not final and there was a possibility that the refunds would have to be returned. Interstate requested the waiver until the appeals of the FERC order were final. The Utilities Board (Board) issued an order on April 22, 1998,

granting the waiver until the FERC order was final, and directing Interstate to file a status report concurrent with its annual Purchased Gas Adjustment (PGA) reconciliation filings.

On July 17, 1998, Interstate filed a request for a waiver of 199 IAC 19.10(8) for a second refund by Northern related to ad valorem taxes. This filing was identified as Docket No. RFU-98-16 (WRU-98-34-150). The amount of the refund was \$45,440. Interstate proposed to treat this second refund in the same manner as the first refund approved by the Board on April 22, 1998. On August 17, 1998, the Board issued an order granting the waiver under the same terms as the first waiver.

On August 21, 1998, Interstate filed a plan related to a third refund of ad valorem taxes. This filing was identified as Docket No. RFU-98-19. The refund amount was \$13,010. Interstate again requested a waiver of 199 IAC 19.10(8) and proposed to treat this third refund in the same manner as the previous two. On September 22, 1998, the Board issued an order approving the refund plan and granting the waiver.

On May 14, 1999, Interstate filed with the Board a request that a fourth refund from Northern related to Kansas ad valorem taxes be treated in the same manner as the previous three refunds. The filing was identified as Docket No. RFU-99-5. The Board approved the treatment of the refund in a letter from the Executive Secretary dated June 10, 1999.

The U.S. Court of Appeals issued an order on October 29, 1999, which affirmed the FERC order that required refunds of amounts paid for Kansas ad valorem taxes, with interest. On March 3, 2000, the Board issued an order finding that the uncertainty regarding the refund had been reduced and directing Interstate to file a plan to begin refunding the money from the four ad valorem tax refunds to customers. The Board indicated that the waivers granted previously were terminated.

On March 16, 2000, Interstate filed an application for rehearing of the March 3, 2000, order and requested that the waivers be continued. Interstate asserted that there was still significant uncertainty concerning the refunds. On March 27, 2000, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response recommending that Interstate be allowed to retain the refunds. The Board, by order issued April 14, 2000, granted rehearing and continued the waivers until November 1, 2000, when the refunds were to be included in the PGA reconciliation.

In the order, the Board stated that allowing Interstate to retain the refund amounts until the PGA reconciliation was beneficial because (1) the refund amounts could be used to offset any PGA under-collections, (2) the additional time should clarify the total amount of the refunds, and (3) by refunding through the PGA, the expense of bill credits or checks would be eliminated.

On May 4, 2000, Iowa Industrial Intervenors (III) filed a motion to intervene in these proceedings and an application for rehearing and reconsideration. III asserted in its pleading that they were sales customers of Interstate during the period 1983 to 1988 and they should share in the refunds. III indicated that since they are no longer sales customers they will not share in the refunds if the refunds are returned as part of the PGA reconciliation process. III requested that the Board reconsider its April 14, 2000, order and permit current transportation customers who were former sales customers to share in the refund. Interstate filed an objection, on May 18, 2000, in which it indicated that its refund practice is to only make refunds to sales customers. Interstate asserted that it would be impractical to match the actual sales data to calculate the refunds for transportation customers. Consumer Advocate filed a response to III's application on May 18, 2000, in which it supported the use of actual sales volumes from 1983 to 1988 for determining transportation customer refund amounts.

On June 2, 2000, the Board issued an order granting III intervention in the various dockets and granted reconsideration of its April 14, 2000, order. The Board then adopted a procedural schedule for these proceedings. In compliance with the procedural schedule, on June 15, 2000, Interstate filed a response indicating it would include transportation customers of the Mason City District in the ad valorem tax refunds. Interstate proposed making the refunds based upon the most recent 12-month volumes prior to the refund. Under this approach, Interstate calculated it

would return approximately 65 percent of the refunds to sales customers and approximately 35 percent to transportation customers. These percentages were based upon volumes for the 12 months ending April 2000. On June 16, 2000, Consumer Advocate filed a response in which it concurred with Interstate's proposal, except Consumer Advocate proposed that transportation customers be allowed to provide proof of actual usage if it was available. On June 23, 2000, Interstate filed a supplement to its June 15 filing. The supplement shows that the refunds would be returned 66 percent to sales customers and 34 percent to transportation customers.

On July 6, 2000, Consumer Advocate filed a pleading requesting that the Board order Interstate to adopt the refund plan filed by MidAmerican Energy Company (MidAmerican) in Docket Nos. RFU-98-11, et al. Neither Interstate nor I filed a response to the pleading. The Board has subsequently learned that Interstate proposes to follow the MidAmerican methodology for making the refunds.

The Board has reviewed the extended history concerning the return of ad valorem tax refunds to Iowa customers. The refunds have been the subject of much litigation, which has delayed the return of these refunds. Most of the litigation has been concluded and the Board now has a plan before it to return money to customers. Because of the delay, the customers who paid the taxes as part of the cost of gas from 1983 to 1988 may not be the customers who receive the benefit of the refund. The passage of time though has made refunds based upon actual volumes from the refund period impractical. Interstate has proposed using the most

recent 12-month volumes as a substitute for the actual data for the period when the taxes were paid.

The taxes were paid by sales customers on Interstate's system during a time when large customers were switching from sales to transportation service. Although current transportation customers are not sales customers today, the Board finds that they should share in the refunds. The plan proposed by Interstate would return the money to current sales customers through the PGA, which will reduce the cost of gas over the reconciliation period after November 1, 2000. The plan would return the money to current transportation customers as bill credits or by check.

The Board finds that the plan accepted by Interstate adopting the MidAmerican methodology is reasonable considering the inability or impracticability of recreating the customer volumes for the period when the ad valorem taxes were paid. The use of the most recent 12-month volumes for division of the refunds between current sales customers and transportation customers will allow the refunds to be returned in as equitable a manner as is practical. The plan is consistent with the one approved for MidAmerican in Docket Nos. RFU-98-11, et al. The Board will therefore approve the refunding of the ad valorem tax refunds by Interstate based upon the plan approved in Docket Nos. RFU-98-11, et al., and using the most recent 12-month volumes.

IT IS THEREFORE ORDERED:

1. Interstate Power Company shall make the ad valorem tax refunds using the methodology adopted in this order.
2. Interstate shall file a final report showing the total amount refunded to both sales and transportation customers within thirty days of the completion of the refund.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr. /s/ Diane Munns
Executive Secretary

Dated at Des Moines, Iowa, this 18th day of September, 2000.